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November 6, 2024

via e-filing

The Honorable J. P. Stadtmueller
United States District Court, Eastern District of Wisconsin
United States Courthouse Room 471
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

Re: *Estate of Le'Quon J. McCoy, et al. v. The City of Milwaukee, et al.*
E.D. Case No. 2:22-cv-320

Dear Judge Stadtmueller:

Pending before the court for decision along with the Defendants' motion for summary judgment (dkt. # 58) is the Plaintiffs' Motion to Permit Plaintiffs' Police Practices Expert, Scott DeFoe, to Testify to the Facts and Opinions in his Amended Report Prepared After Discovery (dkt. # 69).

At what was to have been the final pretrial conference in this case, on May 2, 2023, the Court expressed interest in other cases where Mr. DeFoe's testimony had been permitted or excluded. (Dkt. # 39, at 4-5.) We write to call the Court's attention to a new decision of the Ninth Circuit Court of Appeals, *Hyer v. City & County of Honolulu*, 118 F.4th 1044 (9th Cir. Sept. 23, 2024) in which the court reversed a district judge's decision to exclude the testimony of Mr. DeFoe in its entirety. Among other things, the court said "DeFoe could help a jury understand the options available to officers in similar situations to aid them in deciding whether the defendant officers' use of force was reasonable or excessive." *Id.*, at 1059.

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Sincerely yours,
THE JEFF SCOTT OLSON LAW FIRM, S. C.



Jeff Scott Olson

cc: Assistant City Attorney Jennifer Williams (via e-filing)

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